



REQUEST FOR PRE-APPEAL REVIEW

In the application claims 48-67 remain pending. Claims 1-47 have been canceled without prejudice. No claims presently stand allowed.

The claims presently stand rejected as allegedly being rendered obvious based primarily upon Herold (U.S. Patent No. 5,832,067) as modified by the teachings of Peterson (U.S. Patent No. 6,594,682).

In the Advisory Action it was asserted that the rejection of the claims was to be maintained because the combination of Herold and Peterson teaches the invention “substantially as claimed.” It is respectfully submitted that this assertion evidences that the combination of Herold and Peterson fails to present a *prima facie* case of obviousness which requires a combination of references to disclose, teach, and suggest the invention exactly as claimed, i.e., each and every element considering each and every word. For at least this reason it is respectfully submitted that the rejection of the claims must be withdrawn.

The invention claimed is directed to a method of presenting content retrieved via the Internet and includes providing a content preference selection to a server for use in connection with a search engine which functions to retrieve from the Internet content that is relevant to the content preference selection; receiving from the server at an alarm clock via the Internet the content that is relevant to the content preference selection as retrieved by the search engine; and causing the alarm clock to present the content that is relevant to the content preference selection as retrieved by the search engine at a time that is programmed into the alarm clock.

It is respectfully submitted that neither Herold nor Peterson discloses, teaches, or suggests at least the claimed elements of providing a content preference selection to a server for use in connection with a search engine which functions to retrieve from the Internet content that is relevant to the provided content preference selection for return to the alarm clock as is

claimed. It is for this reason that the combination of Herold and Peterson cannot be said to support a *prima facie* case of obviousness.

Considering first Herold, Herold discloses a method and an apparatus for transferring information from a remote server to an alarm clock. Specifically, the alarm clock has a selectable switch indicative of a plurality of states and the remote server stores a plurality of messages. At a designated time, the alarm clock generates an alarm signal which is used to dial the remote server and the remote server selects a message to return to the alarm clock, the message being selected based upon the state of the selectable switch. Accordingly, it will be appreciated that the system of Herold, which retrieves information from a source of information that is located at an address that is known to the system even before the user indicates any preference for content, i.e., by moving the selectable switch, does not function by providing a content preference selection to a server for use in connection with a search engine which functions to retrieve from the Internet content that is relevant to the provided content preference selection for return to the alarm clock as is claimed. That Herold fails to disclose at least these claimed elements has been acknowledged in the rejection of the claims.

Considering now Peterson, it is respectfully submitted that Peterson similarly fails to disclose, teach, or suggest providing a content preference selection to a server for use in connection with a search engine which functions to retrieve from the Internet content that is relevant to the provided content preference selection for return to another device, such as an alarm clock, as is claimed. Rather, Peterson discloses a system in which a device is provided with an index to Web content where the index (as opposed to a search engine) provides a way to locate actual Web content, such as by specifying a URL or a channel for each piece of Web content that is listed in the index. (Col. 4, lines 21-29 *cited to in the Advisory Action*; Col. 6, lines 17-26). More particularly, within the system of Peterson, the device is responsible for

good at categorizing information.” (Col. 3, lines 37-40). For this reason, rather than utilize a search engine to locate information, Peterson describes a system that provides an index to allow for the retrieval of information from Web content sources that are located only at known, pre-designated addresses or URLs.

From the foregoing, it is respectfully submitted that the combination of Herold and Peterson cannot be said to disclose each and every element set forth in the claims as is required of a *prima facie* case of obviousness. Specifically, as discussed above, neither Herold nor Peterson discloses, teaches, or suggests the claimed element of providing a content preference selection to a server for use in connection with a search engine which functions to retrieve from the Internet content that is relevant to the provided content preference selection for presentation at a time that is programmed into a device such as an alarm clock. Furthermore, it is respectfully noted that, as also discussed above, rather than suggest modifying Herold to arrive at the invention that is set forth within the claims as is additionally required of a *prima facie* case of obviousness, Peterson teaches directly against, i.e., criticizes, discredits, or otherwise discourages, modifying the system of Herold to further include a server that has an associated search engine which functions to retrieve from the Internet content that is relevant to a provided content preference selection. Yet further, while the combination of Herold and Peterson fails to present a *prima facie* case of obviousness, it is respectfully submitted that, were Herold modified according to the teachings of Peterson, the modified Herold system would not be the exact system that is claimed. In this regard, when Peterson is considered in its entirety as is required, rather than suggest modifying Herold to arrive at the exact system claimed Peterson suggests modifying the system of Herold to replace the pre-designated phone number from which information is retrieved with an index having pre-designated Web content addresses, such as

retrieving Web content by using an address that has been pre-designated within the index (Col. 9, lines 36-41) and, prior to or after the Web content is retrieved from each address that has been pre-designated within the index, the device may use user preferences to organize and/or filter the Web content. (Col. 10, lines 34-50). Thus, *exactly like the system disclosed within Herold*, the system of Peterson is designed to retrieve information from a particular sources of information located at a pre-designated address which address is known to the system before the user ever provides any form of “filtering” preferences. As will therefore be appreciated, the system disclosed within Peterson is in direct contrast to the claimed system which is not limited to obtaining information that is located at pre-designated addresses but instead has the distinct advantage of allowing the entirety of the Internet to be comparatively more timely searched to obtain information from a multitude of possible sources, located at addresses that need not be determined prior to the execution of the search, which may have information that is relevant to a provided content preference selection for ultimate return to the playback device, i.e., the alarm clock.

While the rejection of the claims has asserted that Peterson discloses that a search engine is used to retrieve content at Col. 3, lines 20-31, it is respectfully noted that this disclosure is set forth within the background section of Peterson. Specifically, at Col. 3, lines 20-31, Peterson describes that it is known to generally use a search engine to find information on the Internet. However, when Peterson is fully and fairly considered in its entirety as is required, i.e., it is impermissible to pick and choose from a reference only that which will support a given position to the exclusion of what the reference teaches in its entirety, Peterson teaches directly against the use of a search engine in a system such as that which is claimed. In this regard, Peterson notes that it is disadvantageous to use search engines to retrieve content since “computers have a hard time distinguishing between valuable information and worthless information, and are not very


URLs, from which information is retrieved. It is for each of these reasons that it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the reviewing Board is respectfully requested.

Respectfully Submitted;

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